

**Minutes of Meeting
Grafton Planning Board
January 26, 2009**

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A regular meeting of the Grafton Planning Board was held on Monday, January 26, 2009 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Christophe Courchesne, Vice-Chairman, Keith Regan, Robert Hassinger, Richard McCarthy and Associate Member Bruce W. Spinney III. Absent from the meeting was Clerk Peter Parsons. Staff present was Town Planner, Stephen Bishop and Assistant Planner, Ann Morgan.

Chairman Courchesne called the meeting to order at 7:02 p.m.

Mr. Regan informed the Board that he had submitted his letter of resignation to the Town Clerk, effective as of March 1, 2009. Mr. Regan stated he has enjoyed his time serving on the Planning Board but noted that due to increasing pressures from other areas of his life, he is unable to devote the time required for this elected position, but hopes to be able to serve the Town again some time in the future.

ACTION ITEM 1-A – REQUEST FOR DETERMINATION FOR PROJECT PLAN REVIEW – TUFTS UNIVERSITY, PETITIONER

Chairman Courchesne recused himself to the audience due to a conflict of interest.

Vice-Chair Regan stated a letter had been received from Tufts University withdrawing its request from the agenda, and stating they will be submitting a Project Plan Review application to the Board on the HLA Isolation Ward project later in the week.

Chairman Courchesne returned to the Planning Board.

ACTION ITEM 1-B – CONSIDER DECISION – SP 2008-17 WASHINGTON MILLS, NORTH GRAFTON, INC.

Chairman Courchesne requested that a separate Finding be added stating that the Site Plan application complies with the By-Law, and omitting “and the resulting site plan” from the F-14 language. Chairman Courchesne also noted to strike “Mr. Chouinard” from Page 5, change the Waiver references to F-5 and F-7, instead of F-3 and F-11, and that members voting would be himself, Mr. Hassinger, Mr. McCarthy and Mr. Regan.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to make favorable Findings for F-1 through F-24. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to grant the Waiver request as stated. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to grant Special Permit (SP 2008-17)/Site Plan approval with the Findings and Conditions as discussed and amended. **MOTION** carried unanimously 4 to 0.

ACTION ITEM 1-C – CONSIDER DECISION – DEFINITIVE PLAN APPROVAL
– “BRIGHAM HILL ESTATES” SUBDIVISION

Chairman Courchesne suggested that with regard to the Waiver requests, a paragraph be added at the end of each section stating that the Board concludes that the granting of the requested waivers is consistent with the public interest as well as with the intent and purposes of the Town of Grafton Subdivision Rules & Regulations.

Mr. Hassinger noted that with regard to C-5, provision is made for street lights within 300 feet of structures, but nothing speaks to the situation of the long dead-end roadway and the associated issues of needing street lighting. Mr. Hassinger also noted that prior to endorsement, it is the Planning Board authority that designates to the Board of Selectmen where they want the street lights and the Board of Selectmen usually agree with the designated location.

Mr. Bishop asked the Planning Board for revisions to Condition C-5. Chairman Courchesne stated the language should be changed to reflect street light approval with regard to all roadway and intersection locations, additionally requiring Building Inspector verification prior to the issuance of any Certificates of Occupancy. Mr. Regan asked if the applicant had seen the street light condition and Mr. Bishop noted that the draft decision is not typically sent out prior to the Planning Board's review.

Chairman Courchesne noted that he, Mr. Regan, and Mr. Hassinger were the only members eligible to vote on this decision.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to make favorable Findings for F-1 to F-17. **MOTION** carried unanimously 3 to 0.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant Waivers W-1 through W-4 for the reasons listed.

DISCUSSION: The Board wished to note that the Waivers should reflect any changes or additions they have discussed. Mr. Bishop noted any changes through discussion would be made to the Waiver language.

MOTION carried unanimously 3 to 0.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant the Definitive Subdivision approval for “Brigham Hill Estates” with the Findings and Conditions as discussed and amended. **MOTION** carried unanimously 3 to 0.

Chairman Courchesne noted that he had some additional typographical errors for correction to discuss with Ms. Morgan>

ACTION ITEM 1-D – CONSIDER DECISION – SP 2008-13 EXCLUSIVE PROPERTIES, LLC

Mr. Bishop noted that there are some issues with ownership of the units and the open space which will have to be clarified within the Findings, being sure that the issue is covered.

Chairman Courchesne received unanimous consent to table the decision to the next Planning Board meeting.

STAFF REPORT

Mr. Bishop reported they were advancing on the South Grafton Villages Streetscape Project and that the notice will be running in the February 4th issue of the Central Register and the Grafton News.

Mr. Bishop informed the Board that they would be distributing the new Zoning maps at the library and Town Hall for viewing and comments.

Mr. Bishop also noted that it has been reported that the Town did exceedingly well, specifically scoring within the top quarter, with regard to the Commonwealth Capital program.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to approve the open session minutes of January 12, 2009 with the changes noted. **MOTION** carried unanimously 4 to 0.

ITEM 7 – REPORTS FROM PLANNING BOARD REPRESENTATIVES ON TOWN COMMITTEES AND CMRPC

Mr. Hassinger informed the Board that the CMRPC's latest hire was Megan Deprete, a previous Town Planner for the Town of Grafton.

Mr. McCarthy informed the Board that he needed to resign from the Town Administrator Search Committee as he would be out of town on the week of the scheduled interviews of the candidates. Mr. McCarthy requested the Planning Board designate another member to the Committee, stating there were a number of qualified people to be interviewed. Mr. McCarthy noted that if a Committee member is not present for the candidate's interview, then he is not allowed to vote on that particular candidate. Mr. Hassinger stated he was interested and inquired about the dates he would need to be available.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to designate Mr. Hassinger to replace Mr. McCarthy on the Town Administrator Search Committee. **MOTION** carried unanimously 4 to 0.

Mr. McCarthy suggested Mr. Hassinger contact the moderator to be sworn in.

SP 2008-18 VERIZON WIRELESS (BELL ATLANTIC MOBILE OF MASSACHUSETTS CORPORATION LTD. & CELLCO PARTNERSHIP) (APPLICANT/CO-APPLICANTS) ROGER J. ELLIS, (OWNER) – CO-LOCATION – 160R UPTON STREET

Chairman Courchesne recused himself due to a conflict of interest.

Vice-Chair Regan opened the public hearing. Attorney James Valeriani was present representing Verizon Wireless. Mr. Bishop noted the Building Inspector Robert Berger was present to review the sequence of events.

Attorney Valeriani asked Mr. McCarthy if he had any questions since he was absent at the last public hearing. Mr. McCarthy stated he had no questions. Attorney Valeriani answered Mr. Hassinger's questions concerning the generator from the last hearing. Attorney Valeriani also spoke to the Board concerning his testimony and meeting the requirements for the co-location site, noting he had been before the Board for two other Grafton sites in the past, meeting all requirements. Attorney Valeriani informed the Board that Industrial Communications, who was responsible for the site, had led him to believe that Verizon Wireless was all set with their co-location installation. The Board noted that the fact that the site was up and running without a special permit should have been obvious since two other collocations had been secured within the Town, both of which required special permits. Attorney Valeriani noted Industrial Communications connected the Verizon antennae in September. Attorney Valeriani remarked that when he was notified in October that he was required to apply for the special permit, he made application as soon as possible.

Attorney Valeriani stated that the By-Laws set a per day penalty for violations of \$100.00 per day and that he has discussed an offer of \$7,700.00 with the Town Planner regarding this matter.

Mr. Regan wished to note that he has been on the Planning Board for eight years and this is the first time this has happened and also expects it to be the last. Mr. Regan added the Board needs to establish a precedent that this will not happen again.

Building Inspector and Zoning Enforcement Officer Robert Berger explained to the Board that what happened is that in August, 2008 it was reported there were three arrays on the cell tower at 160R Upton Street, but that only two special permits had been issued for the co-location. Mr. Berger noted he instructed the electrical inspector not to energize the third array until it had been granted a special permit. Mr. Berger remarked that it was

not apparent at the time that Industrial Communications had already connected Verizon's array, using an authorized number that had been intended for T-Mobile. Mr. Berger stated that no one was aware that Verizon was operational until the public hearing for the special permit process.

Mr. Hassinger reiterated the problem of putting up the antennae array without a special permit, which the applicant knew he needed since he had co-located two other towers within Grafton. Mr. Hassinger also added that the time frame needed to be re-calculated, as it was far more than 77 days, which would bring the total compensatory fees to more than the offer being made.

Mr. Spinney asked who makes the decision to actually turn on the array at the site. Attorney Valeriani stated that the technician actually determines that the site is okay to be activated.

Mr. Hassinger noted that Industrial Communications were the applicants listed on the electrical permits and that, based on the operational date of September 9, 2008, Verizon would realize 8-10 months of revenue from an unpermitted array. Attorney Valeriani stated that he was not made aware that the permit was not in place until September, at which time he submitted an application for a special permit.

The Planning Board continued to discuss the mitigation possibilities. Mr. McCarthy stated that he would not vote his approval unless Verizon stripped the pole and started from nothing. Mr. Berger noted that he was not sure what the law allowed with regard to 911 status and a cease & desist order. Mr. Spinney added the Board needed more time to discuss the mitigation proposal offered. Mr. Berger stated he would find more information with regard to a cease and desist order.

Mr. Bishop suggested the Board leave the hearing open until getting closer to a resolution in the context of the hearing, noting that if Mr. Berger issues a cease and desist order, the record will be open for submission of that item.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to close the public hearing, keeping the record open for the submission of any actions of the Building Inspector. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to direct Staff to draft a decision, taking into consideration all of the information received and the findings and conditions discussed. **MOTION** carried unanimously 4 to 0.

Chairman Courchesne returned to the Planning Board.

MODIFICATION OF DEFINITIVE PLAN APPROVAL – “HIGHFIELDS ESTATES” SUBDIVISION – MAGILL ASSOCIATES, INC. (APPLICANT/OWNER) – EXTEND CONSTRUCTION DEADLINE

Chairman Courchesne opened the public hearing. Attorney Joseph Antonellis was present for Magill Associates, Inc.

Attorney Antonellis requested the Board continue the public hearing since he is not yet able to submit a plan showing the lot line revisions for the redesign of the water booster station and any ancillary improvements and changes.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to grant the applicant's written request to continue the public hearing to February 23, 2009 at 7:30 p.m. **MOTION** carried unanimously 4 to 0.

MODIFICATION OF DEFINITIVE PLAN APPROVAL – “GLENWOOD ESTATES I” SUBDIVISION – ABU CONSTRUCTION, INC., (APPLICANT/OWNER) – EXTEND CONSTRUCTION DEADLINE

Mr. Regan read the legal notice and Chairman Courchesne opened the public hearing. Kevin Quinn of Quinn Engineering was present for the applicant.

Mr. Quinn updated the Board on the status of the subdivision stating that due to the current status of the housing market, his client will probably move forward and finish the roadway with the final pavement.

Chairman Courchesne informed Mr. Quinn there was correspondence received from the residents of the subdivisions with problems/issues within the development that needed to be addressed by the developer.

Timothy Hanna of 15 Glenwood Lane asked the Board if the hearing included “Glenwood Estates I and II” or just “Glenwood Estates I”. Mr. Hanna was told the hearing was for “Glenwood Estates I” only, but that Glenwood Lane was a part of both subdivisions. Mr. Hanna asked the Board's consideration in extending the construction deadline, since the subdivision process has been extremely long and the residents would like to see the subdivision finally completed specifically trees, sidewalks and potholes.

Mr. McCarthy asked which lots along Glenwood Lane belonged to the “Glenwood Estates I” subdivision and was told by Mr. Hanna that Lots 2, 3, 6, 10 & 12 were part of Glenwood I.

Mr. Bishop noted that the subdivisions will have to go through the acceptance procedure to determine they have been constructed to the Definitive plan, and then go through the process to ask for Town acceptance. Mr. Bishop added that if there are problems or deficiencies, they will be addressed.

Mr. Hassinger requested the plans be checked to see exactly what was called for within the subdivision with regard to sidewalks, curbing, trees, etc.

Chairman Courchesne suggested the residents work with the Town Planner on the “Glenwood Estates II” issues and correspondence, adding that the hearing tonight was specifically for addressing the “Glenwood Estates I” Subdivision issues.

David Freitag of 9 Glenwood Lane expressed concerns to the Board that there seemed to be an inconsistent disconnect between the two subdivisions, which appear to have a plan to be somewhat connected.

Jane Venn of 19 Glenwood Lane informed the Board that part of “Glenwood Estates II”, specifically Chiswell Road and Coach House Road, were finished but for some reason Glenwood Lane is finished for some residents, but not for others.

Mr. McCarthy wished to note that at previous hearings the concerns/issues that were brought to the attention of the developer were to be addressed when the remaining lots were completed. Mr. McCarthy questioned whether these concerns/issues will still be met if the three remaining lots are not completed.

Chairman Courchesne informed the residents that all of these concerns are built into the process for the Planning Board to become aware of issues/concerns and to make the developer aware of what needs to be done to complete the subdivision.

Mr. Quinn wished to note that all developers always try to defer finishing a subdivision until all of the work is completed.

Matilda Chandrakukmar of 12 Glenwood Lane expressed concerns to the Board for sidewalk not completed, exposed vents for a water tank which were to be hidden with plantings, sparse trees for privacy in the back yard and areas by the driveway where no grass will grow. Ms. Chandrakukmar stated she filed a letter of complaint last year at the public hearing when she was unable to sell her home due to unresolved issues and the problems are still not take care of.

Chairman Courchesne suggested Mr. Quinn request a continuance until he can refer the issues/concerns discussed with the developer and provide answers for the Board and residents of the subdivisions.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to grant the applicant's written request to continue the public hearing to February 9, 2009. **MOTION** carried unanimously 4 to 0.

**SITE PLAN 2008-2 CHENG-DU RESTAURANT – KUO RUNG TANG,
(APPLICANT/OWNER) – 387 PROVIDENCE ROAD**

Chairman Courchesne opened the public hearing. Paul Ciesluk of Guerard Survey Co. & Association, Inc. was present for the applicant.

Mr. Ciesluk informed the Board they did not have revised plans ready yet and wished to continue the public hearing.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to grant the applicant's written request to continue the public hearing to February 9, 2009 at 7:30 p.m.
MOTION carried unanimously 5 to 0.

**SP 2008-19 MEI PING HUANG SITU (D/B/A WONG'S RESTAURANT),
APPLICANT – YUE CHEONG REALTY TRUST, OWNER – 62 UPTON STREET
– 4.4.4 (SIGNS-SPECIAL CASES/RELIEF) – REPLACE PRE-EXISTING, NON
CONFORMING SIGN**

Chairman Courchesne opened the public hearing. David Glispin of Sunshine Signs was present for the applicant.

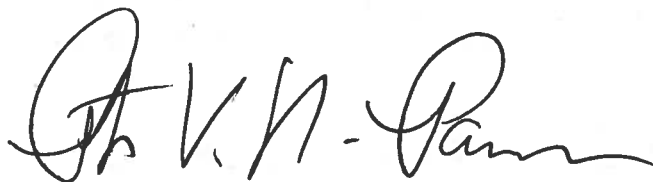
Mr. Glispin informed the Board that they modified the sign drawing submissions with two options: one with traditional spot lighting and a second option of a non-internally lit sign with downward fluorescent lighting. Mr. Glispin stated he felt the abutters would be very satisfied with the fluorescent lighting choice for the new sign and also informed Mr. Hassinger that the actual sign structure measurement was 92" from grade to the top of the sign.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to close the public hearing.
MOTION carried unanimously 5 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to direct Staff to draft a decision, taking into consideration all the information received, specifically the Board's choice of the fluorescent lighting fixture option, and the findings and conditions discussed. **MOTION** carried unanimously 5 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to adjourn the meeting.
MOTION carried unanimously 5 to 0.

The meeting was adjourned at 9:12 p.m.

A handwritten signature in black ink, appearing to read "Peter Parsons", written over a horizontal line.

Peter Parsons, Clerk